2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

19 May 2005

Original: English

New York, 2-27 May 2005

Peaceful use of nuclear energy

Working paper submitted by the Islamic Republic of Iran for Main Committee III

Peaceful use of nuclear energy

1. Article IV of the Treaty guarantees *"the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty"* and provides for an undertaking by all parties to the Treaty *"to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy"* in order to establish a balance between security concerns and the socio-economic requirements for development especially for the developing countries. This Article also plays a crucial role as the main incentive set forth to encourage non-nuclear weapon states to join the Treaty and thereby foster the non-proliferation regime.

2. Peaceful application of nuclear energy was recognized in the Statute of the International Atomic Energy Agency well before the conclusion of the NPT. The *reason de etre* of the Agency is "atom for peace" and as stipulated in article II of the statute of the Agency one of the main pillar of the agency is acceleration and enlargement of contribution of atomic energy to peace, health and prosperity throughout the world. The peaceful application of atomic energy is so important that even in paragraph 4 of the comprehensive safeguard agreement it is reiterated that: *"The safeguards provided for in this Agreement shall be implemented in a manner designed:*

(a) To avoid hampering the economic and technological development of the country or international co-operation in the field of peaceful nuclear activities, including international exchange of nuclear material;

(b) To avoid undue interference in the country's peaceful nuclear activities, and in particular in the operation of facilities; and

(c) To be consistent with prudent management practices required for the economic and safe conduct of nuclear activities."

05-35068 (E) 230505

3. The inalienable right of all States Parties to nuclear technology for peaceful purposes without discrimination indeed constitutes the very foundation of the Treaty. This inalienable right in itself emanates from two broader propositions. First, scientific and technological achievements are the common heritage of humanity and are not the monopoly of some nations. They must be used for the improvement of the human condition and not abused as instruments of terror and domination. The second general proposition is the requisite balance between rights and obligations of the States Parties which is the basis of any sound legal instrument. This baiance guarantees the longevity of the legal regime by providing incentives for membership and compliance.

4. Article III, while providing for the undertaking by each non-nuclear weapon state to conclude safeguard agreements with the IAEA, is equally explicit in articulating that the implementation of such safeguards shall be *"in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing"*.

5. As an important element of the package which led to the indefinite extension of the Treaty in 1995, the right to peaceful uses of nuclear energy is underlined in 7 paragraphs of the decision on Principles and Objectives. Ensuring the exercise of inalienable right of all parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination is specifically emphasized in Principle 14.

6. The 2000 NPT Review Conference also reaffirmed that nothing in the Treaty shall be interpreted as affecting the inalienable right of all the parties to develop, research production and use of nuclear energy for peaceful purposes without discrimination.

7. This notion was duly noted in the Final Document of the 2000 NPT Review Conference considering that *"the strengthening of IAEA safeguards should not adversely affect the resources available for technical assistance and cooperation. The allocation of resources should take into account all of the Agency's statutory functions, including that of encouraging and assisting the development and practical application of atomic energy for peaceful uses with adequate technology transfer."*

8. Given the importance of the peaceful applications of nuclear energy and nuclear technologies for human health, agriculture, environmental protection and sustainable economic development, especially in the developing countries, the statute of the International Atomic Energy Agency recognizes its role in encouraging and assisting *"research on, and development and practical application of, atomic energy for peaceful uses throughout the world"* and fostering *"the exchange of scientific and technical information on peaceful uses of atomic energy"*.

9. In recent years, the fundamental role of the IAEA for the promotion of nuclear energy for peaceful purposes has been increasingly recognized. Developing States Parties to the Treaty expect more financial and human resources to be dedicated to the Technical Cooperation Fund of the Agency to enable the latter to effectively discharge its responsibilities.

Export control

10. Measures taken by the States Parties to prevent nuclear proliferation should facilitate rather than hamper the exercise of the recognized rights of the developing States Parties to the Treaty for the peaceful applications of nuclear energy. Imposition of undue restrictions as a cover for implementation of certain States' foreign policy objectives is a manifest violation of Article IV obligations and challenges both the integrity and credibility of the Treaty.

11. Undue restrictions on the transfers of nuclear materials, equipment and technologies for the peaceful uses of nuclear energy should be removed. Bilateral and multilateral cooperation among the States Parties to the Treaty under the supervision of the IAEA on the peaceful uses of nuclear energy should never be restricted or confined either by other states or ad hoc export control regimes. The application of unilaterally enforced export control regimes in contravention with the letter and the spirit of the Treaty has hampered the access of developing countries to nuclear materials, equipment and technologies for peaceful purposes.

12. Principle 9 of the 1995 Decision on Principles and Objectives, adopted together with the Decision on Indefinite Extension of the Treaty, provides the appropriate mechanism to address proliferation concerns and explicitly reiterates that *"nothing should be done to undermine the authority of the International Atomic Energy Agency in this regard"*. Non-proliferation control arrangements should be transparent and open to participation by all States. Such arrangements should not impose restrictions on access to material, equipment and technology for peaceful purposes required by developing countries for their sustainable development. In this regard any attempt to use the International Atomic Energy Agency's (IAEA) technical co-operation program as a tool for political purposes in violation of the IAEA's Statute, is unacceptable.

Cooperation on the peaceful use of nuclear energy

13. Measures need to be taken to ensure that the inalienable rights of all the States Parties under the provisions of the preamble and articles of the Treaty are all fully protected. No State Party should be limited in exercising its rights under the treaty based on allegations of non-compliance which are not substantiated by the IAEA. The inalienable rights of the States Parties, as stipulated in the Treaty, cover all aspects of peaceful technologies and are not limited to specific areas. In this connection, it was stipulated in the Final Document of the 2000 NPT Review Conference and reiterated by the Ministers of the Non-Aligned Countries in the Durban Conference in 2004 that: *"each country's choices and decision in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international co-operation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies."* The interpreting of Article IV in a way that limits the rights derived from this Article to mere *"benefits of nuclear energy"* is clearly in contravention of the very wording of the Treaty and is totally unacceptable.

14. Rapid global demand for electricity, increasing uncertainty in supply and prices of oil and natural gas, and concerns about the greenhouse gas emissions have opened more prospects for the new development of nuclear energy at the global scale. Within this trend more countries have the determination to construct new nuclear power plants, while others already having such plants, have opted to

construct new ones. Accordingly the global demand for nuclear knowledge and materials, including the programs for development of fuel cycle facilities are growing rapidly. Global trends and analysis suggest a lucrative market for the nuclear fuel in the next decade.

15. Unfortunately the developing States Parties to the NPT face wide range of impediments in expanding their efforts in the exercise of their rights for the application and use of nuclear technology for peaceful purposes. Many nuclear technologies, materials and items are subject to broad restrictions under the pretext of proliferation. Political constraints and monopolies in the area of fuel supply and reprocessing prevents developing countries from enjoying their inalienable right to peaceful uses of nuclear energy and risk the continuous and secure operation of their nuclear power plants. The suppliers have all the means therefore to impose their conditions on the recipients, who are completely dependent on importing fuel for their nuclear power plants.

16. Developing countries have been thus deprived from their basic rights under Article IV of the Treaty. A series of measures are required here to rectify this unfair situation and ensure them of exercising their legitimate rights under the Treaty. Article IV otherwise would be just dead letters on a paper. These measures could include:

- Recognizing the right of all States Parties to develop research, production and use of nuclear energy in all fields;
- Respecting the national choices, decisions and policies of all States Parties to work in all safeguarded nuclear activities, including fuel cycle without discrimination;
- Facilitating and encouraging the economic and technical cooperation in the fuel cycle field through the establishment of regional arrangements.
- Playing a more effective role by the IAEA in guaranteeing the fuel supply and recognition of the fact that restricting fuel supply would be contrary to the basic obligations of the States parties to the NPT;
- Ensuring that fuel would be accessible to the developing countries with competitive and fair conditions devoid of imposed regulations and prices determined through monopolies in the market.
- Ensuring that the application of national control measures do not restrict or limit the access of States Parties to the fuel market;

17. To relieve concerns over the expansion of fuel cycle activities and associated proliferation risks, such as risk of diversion of fissile materials to undeclared purposes, countries with vast nuclear activities and particularly those with fuel cycle program could promote more confidence and transparency within the framework of their IAEA safeguard agreements and other relevant instruments. The States Parties which have enjoyed the international cooperation to assure the implementation of their national policies on fuel cycle and peaceful use of nuclear energy could be expected to sign and implement the Additional Protocol. These countries could even voluntarily provide more transparency through particular arrangements with the IAEA with respect to certain aspect of their fuel cycle program in order to create more confidence.

24. **This Conference should deal with the question of inviolability of the nuclear facilities under full scope safeguards of the Agency and the States Parties to the NPT should undertake not to take or assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear facilities devoted to peaceful purposes under full scope safeguards of the IAEA.**